IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 182 of 1992
with
INCOME TAX REFERENCE Nos 184, 184-A, 184-B
and 184-C of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

DEEPAK OIL MILLS

Appearance:
MR MIHIR H JOSHI with MR MANISH R BHATT for Petitioner
NOTICE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 16/10/2001

COMMON ORAL JUDGEMENT

(Per : MR.JUSTICE D.A.MEHTA)

The following common question has been referred to the Court at the instance of the revenue :-

"Whether, the Appellate Tribunal is right in law and on facts in holding that both deductions under sections 80HH and 80J are allowable to the assessee simultaneously and in full ?"

2. In ITR No. 182 of 1992, the assessment year is 1983-84. In ITR Nos. 184 to 184-C of 1992, the assessment years are 1978-79 to 1981-82. Mr Mihir H Joshi appears for the applicant-revenue. Though served, none appears on behalf of the respondent-assessees. Mr Joshi has fairly pointed out that the controversy raised by the question stands concluded by the decision of this Court in ITR No. 282 of 1985 decided on 14.6.2001 which was followed in ITR No. 54 of 1986 decided on 3.8.2001. For the reasons stated in the aforesaid decisions of this Court, we hold that the Tribunal was right in law in holding that the deductions under Sections 80HH and 80J of the Act are allowable simultaneously and in full. The questions referred to us are, therefore, answered in the affirmative i.e in favour of the assessee and against the revenue.

3. The references stand disposed of accordingly with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-